

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

ROSEMARY CHINYE OKOLIE
TORIOLA,

)
)
)
Plaintiff,)
)

v.)

Case No. 13-CV-5142 (JG)(JO)

F.J.C. SECURITY SERVICES INC. AND
MR. JOE "DOE" DEP 29 SHIFT
SUPERVISOR,

)
)
)
Defendant(s).)

Dated: November 19, 2013

***Answer and Affirmative Defenses
Submitted By
Defendant FJC Security Services, Inc.***

Defendant, FJC SECURITY SERVICES, INC. sued herein as "F.J.C. Security Services Inc.", by its attorneys, as and for its Answer and Affirmative Defenses to the Complaint ("*Complaint*") in this action, alleges as follows:

1. Because the first paragraph of the Complaint alleges legal conclusions, no response is required, but Defendant denies liability.
2. As to the first paragraph on page 2 of 16 of the Complaint, Defendant denies sufficient knowledge or information to admit or deny the allegations contained in the first paragraph on page 2 of 16 of the Complaint, but denies liability.
3. Defendant denies sufficient knowledge or information to admit or deny the allegations contained in paragraph 1 of the Complaint.
4. For all times material to the Complaint, Defendant admits the allegations alleged in Paragraph 3 of the Complaint.
5. Defendant denies the allegations contained in Paragraph 4 of the Complaint.

6. Defendant denies sufficient knowledge or information to admit or deny the blank allegations contained in paragraph 5 of the Complaint.
7. Defendant denies the allegations contained in Paragraph 6 of the Complaint.
8. Defendant denies the allegations contained in Paragraph 7 of the Complaint.
9. Defendant denies sufficient knowledge or information to admit or deny the allegations contained in Paragraph 8 of the Complaint.
10. Defendant denies sufficient knowledge or information to admit or deny the allegations contained in Paragraph 9 of the Complaint.
11. Defendant denies sufficient knowledge or information to admit or deny the allegations contained in Paragraph 10 of the Complaint.
12. Defendant offers no response to Paragraph 11 of the Complaint as Plaintiff does not allege age discrimination in this matter.
13. Defendant denies sufficient knowledge or information sufficient to admit or deny the allegations contained in Paragraph 12 of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

14. The Complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

15. The allegations upon which Plaintiff relies and the alleged conduct is caused by Plaintiff's culpable conduct.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

16. Plaintiff has failed to mitigate damages.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

17. The Court may not have in personam jurisdiction over the Defendant because of insufficiency of service.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

18. Defendant at all times material hereto has been in full and complete compliance with federal and state laws.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

19. All or any part of Plaintiff's claim may be barred by the doctrine of waiver and/or estoppel.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

20. Plaintiff's alleged claim may be barred because he failed to exhaust his administrative and/or contractual remedies.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

21. All or part of Plaintiff's claim may be barred by the applicable statute of limitations.

AS AND FOR A NINETH AFFIRMATIVE DEFENSE

22. The Court may lack federal subject matter jurisdiction.

WHEREFORE, Defendant FJC SECURITY SERVICES, INC. prays that this Court enter an Order dismissing the Complaint with prejudice, awarding its reasonable attorneys' fees and disbursement of costs for defending this meritless claim, and such other and further relief as this Court deems appropriate.

DATED: Tuesday, November 19, 2013

Respectfully Submitted,

Of Counsel to:

INGBER LAW FIRM, PLLC
Clifford J. Ingber, Esq. (CJI 7476)
6 Stallion Trail
Greenwich, Connecticut 06831
(203) 629-6129/ Fax: (203) 629-3954
Cjingber@ingberlaw.com
FJC Security Services, Inc., Defendant
-its Attorneys-

WEISS & WEISS LLC, Of Counsel

By: /s/ Scott A. Weiss
Counsel of Record for:
FJC Security Services, Inc., Defendant
2000 Post Rd., LL 106
Fairfield, CT 06824
50 Main Street, 10th Floor
White Plains, New York 10606
(866) 277-2707/Fax: (203) 254-2725
Scott@weissnweiss.com
(SW0431)

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Plaintiff,)	
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v.)	Case No. 13-CV-5142 (JG)(JO)
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MR. JOE "DOE" DEP 29 SHIFT)	
SUPERVISOR,)	
)	
Defendant.)	

Certificate of Service

I, Scott A. Weiss, an attorney, certifies and affirms, under penalty of perjury, 28 U.S.C. §1746 (2013) that I caused to have this within ***Answer and Affirmative Defenses Submitted by Defendant FJC SECURITY SERVICES, INC.*** to be served on the following by first class mail, postage prepaid on Thursday, Tuesday, November 19, 2013:

Plaintiff: Rosemary Chinye Okolie Toriola
253-15 80th Avenue, Suite 211
Flora Park, New York 11004

DATED: Tuesday, November 19, 2013

Respectfully Submitted,

Of Counsel to:
INGBER LAW FIRM, PLLC
Clifford J. Ingber, Esq. (CJI 7476)
6 Stallion Trail
Greenwich, Connecticut 06831
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FJC Security Services, Inc., Defendant
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WEISS & WEISS LLC, Of Counsel

By: /s/ Scott A. Weiss
Counsel of Record for:
FJC Security Services, Inc., Defendant
2000 Post Rd., LL 106
Fairfield, CT 06824
50 Main Street, 10th Floor
White Plains, New York 10606
(866) 277-2707/Fax: (203) 254-2725
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(SW0431)